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**AUG 06 2007**

**OFFICE OF PETITIONS**

In re Application of	:	
Philip C. Backus	:	
Application No. 10/667,731	:	ON PETITION
Filed: September 22, 2003	:	
Attorney Docket No. 7239.3001.001	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed July 7, 2007.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a response to the Notice of Non-Compliant Amendment mailed July 19, 2006. This Office action set an extendable period for reply of one (1) month. No reply having been received, the application became abandoned on August 20, 2006. A Notice of Abandonment was mailed on February 8, 2007.

Petitioner contends that he did timely file a reply on July 28, 2006. Petitioner explains that the reply was accidentally filed in application no. 10/667,371, not 10/667,731. A review of application no. 10/667,731

As set forth in the Manual of Patent Examining Procedure § 724.05:

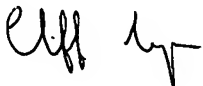
Where the Office can determine the correct application file that the papers were actually intended for, based on identifying information in the heading of the papers (e.g. application number, filing date, title of invention and inventor(s) name(s)), the Office will transfer the papers to the correct application file for which they were intended without the need of a petition.

Here, apart from the application number, the response did contain the correct identifying information (specifically the attorney docket number, the title of invention, the inventor, the filing date, and Examiner's name). Accordingly, it is concluded that the Office could have determined the correct application file for which the response was intended.

In view thereof, **THE HOLDING OF ABANDONMENT IS WITHDRAWN.**

The matter is being forwarded to Group Art Unit 3782 for consideration of the amendment filed July 28, 2006 (copy supplied with the instant petition).

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

A handwritten signature in black ink, appearing to read 'Cliff Congo', with a stylized flourish at the end.

Cliff Congo  
Petitions Attorney  
Office of Petitions